



**EXHIBIT 10**

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**G. HARRISON SCOTT**  
CHAIRMAN OF THE BOARD

August 2, 2019

Honorable Jelena McWilliams  
Chairman of the Board of Directors  
Federal Deposit Insurance Corporation  
550 17<sup>th</sup> Street, NW  
Building MB-6028  
Washington, DC 20429

*Via Email*

**RE: Petition for an Order Directing the Executive Secretary to Provide All Documents and Documentation Incidental to the July 19, 2018 Board Meeting - FDIC 12-489b and FDIC 12-479k**

Honorable McWilliams:

This is an appeal by Bank of Louisiana from a denial to furnish documents and documentation incidental to a Board Meeting on July 19, 2018.

On July 19, 2018, the Board passed a Resolution appointing Richard C. Miserendino and Christopher McNeil as administrative law judges. It further, by means of an Order, dictated the method of conducting a rehearing. Counsel for Bank of Louisiana made a request for a copy of the minutes of the meeting. This request was initiated on January 25, 2019. Without burdening the Chairman with the travails suffered in the meantime, it was finally disclosed on July 10, 2019 that there were no minutes. Since there were no minutes which would or should have contained the documents and documentation evidencing a properly conducted meeting, Counsel requested all documents and documentation incidental to the meeting.

### **JURISPRUDENCE**

Bank of Louisiana is a litigant. It filed for discovery which was not honored. As a litigant, it is not curtailed by provisions in the Freedom of Information Act.

This request was denied and Petitioner was advised to file a Freedom of Information Request.

“...it is settled that the disclosure provisions of FOIA are not a substitute for discovery and a party’s asserted need for documents in connection with litigation will not affect, one way or another, a determination of whether disclosure is warranted under FOIA.”  
*Columbia Packing Company v. United States Department of Agriculture*, 563 F.2d 495 (1<sup>st</sup> Cir. 1977)

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## **LAW**

The Freedom of Information Act, 5 U.S.C. Section 552b provides:

“--- a person may not in any manner be required to resort to, or be adversely affected by, a matter required to be published in the Federal Register and not so published.”

“(2) Each agency, in accordance with published rules, shall make available for public inspection and copying --.”

(A) Final opinions, --- as well as orders, made in the adjudication of cases;”

“Each agency shall also maintain and make available for public inspection and copying current indexes providing identifying information ---.”

“(C)(i) Any person making a request to any agency for records under paragraph (1), (2), or (3) of this subsection shall be deemed to have exhausted his administrative remedies with respect to such request if the agency fails to comply with the applicable time limit provisions of this paragraph.”

## **REGULATION**

The FDIC Rules and Regulations, Part 311 provides:

“This part implements the policy of the ‘Government in the Sunshine Act’, section 552b of title 5, United States Code.”

“§ 311.8 Transcripts and minutes of meetings.”

“(d) *Procedures for inspecting or copying available material.* (1) An individual may inspect materials made available under paragraph (c) of this section at the offices of the Executive Secretary, --- during normal business hours.”

“(2) An individual may also submit a written request for transcripts or minutes, reasonably identifying the records sought, to the Executive Secretary, ---.”

## **NO FOIA REQUEST**

In compliance with the foregoing, the undersigned, on January 25, 2019, filed with Ms. Best, Assistant Executive Secretary, a request for the July 19, 2018 minutes. Having received no reply, a reminder was filed on February 5, 2019, to which there was no reply.

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As of March 9, 2019, we were advised that we needed to proceed by way of FOIA, (Freedom of Information Act).

### **FOIA REQUEST**

At this point, the undersigned prepared for an appeal; however, Co-Counsel, Mr. Lemann, filed an FOIA request for Docket Sheets.

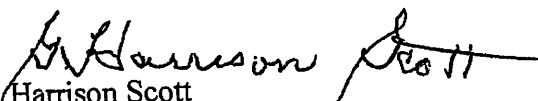
On May 21, 2019, Mr. Lemann expanded his Docket Sheets request to include the minutes of the July 19, 2018 meeting, which heretofore had been denied to the undersigned.

On July 10, 2019, Mr. Lemann was informed verbally, by means of a telephone call, that there were no minutes. This has not been confirmed in writing and thus far counsel has been denied the right to any documents pertaining to the July 19, 2018 meeting.

### **CONCLUSION**

It is respectfully requested that the Chairman order the Executive Secretary to furnish copies of all documents and documentation incidental to the July 19, 2018 meeting and more particularly to Memorandum of Actions.

Sincerely, -

  
G. Harrison Scott  
Counsel for Bank of Louisiana

/s/ Arthur A. Lemann, IV  
Co-Counsel for Bank of Louisiana

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